

North Carolina Juvenile Justice-Behavioral Health Information Sharing Guide



**A tool for effective information sharing
among local juvenile justice – behavioral
health teams in North Carolina**

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Introduction

In 2012, the NC Department of Public Safety (DPS), Division of Adult Correction & Juvenile Justice (DACJJ), the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMHDDSAS), and the UNC-Greensboro (UNC-G) Center for Youth, Family, and Community Partnerships (CYFCP) embarked on an initiative to improve information sharing for juvenile justice youth with mental health, substance abuse or co-occurring disorders. Throughout this process, a core value was to ensure that all processes and tools were developed with families in mind. Therefore, family partners were a part of the committee, as well as consulted throughout the project.

This was a result of two initiatives (Reclaiming Futures and Juvenile Justice Substance Abuse Mental Health Partnerships) both working to improve the system of care and targeted outcomes for youth and families involved in the juvenile justice and mental health/substance abuse systems. These initiatives had local teams across the state of North Carolina working to share information with one another to better coordinate services for the youth and families they were serving, as well as gather better evaluation information to improve the quality and impact of these services.

In fall of 2012, a team from North Carolina applied to be a part of the **Information Sharing Certificate Program** conducted by the Center for Juvenile Justice Reform (CJJR) at Georgetown University's McCourt School of Public Policy. This program is designed to enable leaders to overcome information sharing challenges, while respecting laws and other provisions that protect the privacy and other rights of youth and their families. The program is hosted in partnership with the Juvenile Law Center (JLC) and the Robert F. Kennedy (RFK) National Resource Center for Juvenile Justice, led by the RFK Children's Action Corps, and is supported with funding from the MacArthur Foundation's *Models for Change: Systems Reform in Juvenile Justice* Initiative. The team with representation from DPS, DMHDDSAS and UNC-G attended a 3-day workshop in March 2013 that facilitated increased knowledge around information sharing for individual case planning and decision-making, law, policy and program development, and program evaluation and performance measurement.

This resulted in the capstone project for North Carolina, with the goal of decreasing the burden on youth and families involved in both the juvenile justice and behavioral health systems and to provide support to local teams' efforts in improving their systems of care. This involved developing information sharing protocol and procedures that can be utilized by local planning teams, which included a juvenile justice behavioral health consent form, memorandum of understanding template, and related training tools.

Information Sharing Principles & Considerations

Frequently Asked Questions

1. What are the benefits of information sharing?

Information sharing in the juvenile justice – behavioral health services context has three primary purposes: to allow juvenile justice and behavioral health agencies to coordinate their case planning and service delivery for individual juveniles; to inform law, policy, and program development; and for program evaluation and performance measurement.

Youth and families participating in the juvenile justice system are frequently assisted by multiple agencies. By effectively sharing information, service providers can reduce the administrative burden and confusion that youth and families experience by reducing time and duplication (e.g., multiple assessments). Moreover, if these agencies share information, they will have a more complete understanding of the youth and family's circumstances and will be able to coordinate service planning and delivery with each other. This allows service providers to build a coordinated set of services that will more effectively meet the needs of the youth and family.

Sharing information can help inform other decisions being made by local teams, agencies, and state or local government entities as they develop programs to serve youth. It is critical that decision-makers have accurate information about youth and families who are involved in the juvenile justice system and in need of mental health or substance abuse services. This increases the ability to effectively allocate resources to get the “right service” to the “right youth” at the “right time.”

Finally, it is critical that we have data to demonstrate the effectiveness of services so we can determine if we are implementing programs the way they were intended and that we are achieving targeted outcomes. All of these purposes work together by using data to drive decisions at the individual, program, or system level.

2. When is it appropriate for agencies to share information about a youth?

Before sharing information, you should ask yourself three questions:

1. Is the information sensitive, private, or confidential? The law may limit the sharing of certain kinds of information, and information sharing, if not done carefully, can sometimes lead to discrimination, stigmatization, and financial or reputational harm.
2. Do I have permission, or other authority, to share the information? Sometimes the subject of the information has rights relating to the use or disclosure of the information and must give you permission before you share it with others. When giving permission, the subject may have the right to limit the kinds of information to be shared and the purposes for which it may be used.
3. Does the person asking for the information have the right to receive it? Some laws require you to disclose information in certain circumstances, and in addition to specifying the circumstances, these laws often specify what information must be disclosed and to whom.

If information is deemed private or confidential and generally protected by law from disclosure (question 1), then you must make sure that you are either permitted (question 2) or required (question 3) by law to share the information before disclosing it. Even if you have the authority to share information, you should always exercise your best judgment about how much and what kind of information to share. For example, treatment providers sharing information about a juvenile with the juvenile's court counselor may have the authority (pursuant to consent) to share a large amount of information about the youth. However, they may want to share only information that reflects the youth's participation in treatment and progress made toward treatment goals, rather than other details and information revealed during treatment sessions that may not serve the purposes for which the court counselor is seeking information.

3. What are potential negative collateral consequences of information sharing? How can we avoid these?

Many of the youth and families who are involved in juvenile justice and mental health/substance abuse services are facing very sensitive and personal situations. The details of what is revealed during the assessment process in any of these agencies can be difficult for a person to share. Disclosing this information inappropriately may negatively affect your relationship with a youth or family and their ability to trust your intentions to help them.

For agencies that acquire and maintain information about mental health, developmental disabilities, and substance abuse services, improper disclosure of patient information can have harmful, stigmatizing consequences for patients and result in civil or criminal penalties for the disclosing agencies. Therefore, it is in the best interests of all parties involved that information sharing is done appropriately and in compliance with the applicable laws and regulations. Information sharing is important to provide the best services possible to youth and families, but it must be done lawfully and with proper protections in place. For information related to preventing self-incrimination in juvenile justice, see question 12.

4. What do I do if I'm unsure if I can share information?

Behavioral health services information and juvenile justice information are protected by laws that impose on the holders of information a duty to secure and not disclose the information except as permitted or required by law. Basically, there are three instances when information may be disclosed:

1. When a law says you may or must disclose it.
2. When a court has ordered you to disclose the information.
3. When the subject of the information, or someone with the authority to represent the subject, has consented to the disclosure.

If one of the three instances above does not apply, you may not disclose confidential information. Even when one of these situations applies, the disclosure of information must be done in accordance with the law, court order, or consent. Often the law, order, or consent will direct what kind and how much information may be disclosed and to whom a disclosure may be made.

Obviously, a discussion of every provision of law governing juvenile justice and behavioral health information is beyond the scope of this guide. While this guide does address several laws that permit or require information sharing in certain circumstances, it focuses on disclosures made with consent and provides you with information, including a model consent form, to allow you to implement number 3, above. This guide provides you with information about the laws and best practices that apply when you are asking an individual for his or her permission to share information with other agencies so that the designated agencies can work together to better serve the individual. This guide does not replace your own agency's policies nor does following this guide alone ensure that you are in compliance with all federal and state laws that may apply to the information held by your agency. If you are uncertain whether you may share information in a particular circumstance, you should refer to your own agency's information sharing policies, consult with relevant supervisors, or seek legal advice.

5. Who might be involved in information sharing and why?

Youth & Family

The youth and family are central to the information sharing process as they generally have the legal right to control the dissemination of information about them, which provides them with a unique set of rights and choices to exercise. Families have the right to request that agencies/persons limit the information that is shared with others and to control (in most cases) with whom the information is shared. It is critical that youth and families are educated about their rights and their ability to choose how information is handled. Sharing with the youth and family the purpose of a disclosure or why information needs to be shared (e.g., to better coordinate services for the youth and family and to

evaluate services to improve their quality) can help the youth and family make an informed choice about whether to permit information sharing.

Juvenile Court Staff

Juvenile court counselors gather information to develop recommendations to the court for youth who are adjudicated, as well as strategies for youth who have been diverted from the court system. These recommendations are based on an assessment of the youth, family and other contextual factors that may be gathered through information sharing (e.g., assessment results) and include a set of services or strategies to help address the juvenile's unique risks for future offending and needs. Court counselors assist youth and families in accessing services, including mental health, substance abuse, Juvenile Crime Prevention Council (JCPC), and other community-based services. Court counselors can assist with reducing barriers to treatment if the youth and/or family are unable to engage in the recommended services.

Treatment Providers (Mental Health, Substance Abuse, Developmental Disabilities, Juvenile Crime Prevention Council Programs)

Treatment providers provide assessment and/or treatment services to youth and their families. Treatment services require a treatment plan founded upon an evidence-based or comprehensive clinical assessment. It must be developed and monitored collaboratively with the Child and Family Team, which includes the youth, family members, clinician, court counselor, and other key stakeholders involved in the provision of services or other persons selected by the family. Treatment providers need permission from the family or by order of the court to share information with Child and Family team members. Treatment providers sometimes need to share information among one another (i.e. to coordinate care and treatment or to transition youth from services in one agency to another agency), with the court counselor to monitor a juvenile's treatment participation and progress, or with other partners working to engage the youth in treatment or other pro-social activities (i.e. Reclaiming Futures agency or treatment engagement partner/expediter).

Local Management Entity-Managed Care Organizations (LME-MCO)

LME-MCOs help qualifying youth and families access and pay for mental health, developmental disabilities, and substance abuse services in your community. As LMEs they are responsible for monitoring, supervising, and providing access to publicly-funded mental health, developmental disabilities, and substance abuse services. As MCOs, they also oversee the Medicaid funds used to fund these services. LME-MCOs serve many roles dependent on having access to information, including using information to authorize services, pay for services, monitor service providers and service quality, and improve the overall system of care in the community.

Coordinating Agencies

In many communities throughout North Carolina, local teams work to improve the local processes for how juveniles and/or their families can access mental health, substance abuse or other community-based services. These teams comprise leadership from juvenile justice, LME-MCOs, and treatment providers. In some situations, these teams also include additional agencies or organizations (Reclaiming Futures, JJSAMHP partner, etc.) that, though not directly involved in the provision of services, help lead efforts to improve the quality of the local process and ensure that outcomes are being achieved and best practices are being used to effectively engage youth and families in needed services. These agencies may collect and/or need access to information to help teams make data-driven decisions and to monitor processes and outcomes. In other instances, there may be an agency or person (i.e. treatment expediter, Family Partner, etc.) involved to specifically help youth and families engage in services, address barriers to care, follow-up with youth and families, and connect them with pro-social resources in their community.

Other Persons As Identified by the Youth/Family

The youth or family may designate other parties with whom information may be shared, such as another relative, close family friend, coach, faith-based person, school representative, or other person who provides support to the youth or family or is directly involved in providing the youth/family services. Many times, this person may be involved in Child and Family Team meetings, but may be subject to information sharing in other venues.

Protecting Youth’s Information

6. What is “personally identifiable information?”

Personally identifiable information is any information that, when used on its own or in combination with other information, can identify a specific individual, such as name, date of birth, social security number, or health or educational information that may link with an individual. Even combinations of certain attributes, such as race, gender, and date of birth may be considered personally identifiable when used in certain contexts.

7. What is “confidential information?”

Confidential information is information protected by law due to its sensitive nature or because it was created or acquired in the course of a private relationship, such as patient-doctor relationship. Confidential information that includes personally identifiable information—for example, treatment information acquired by a mental health professional in the course of treating a patient and that is linked to a name, address, or other identifying information—is protected by law from disclosure to others, and the information cannot be shared except as permitted or required by law. The purpose of confidentiality laws related to health, mental health, developmental disabilities, and substance abuse services is to prevent the provider of care, except where authorized by law, from disclosing information to others that would identify an individual as a recipient of health, mental health, developmental disabilities, or substance abuse services.

8. What limits should be placed on sharing confidential information?

First and foremost, information should only be shared in compliance with applicable laws and any agency policies enacted to implement those laws. (See the section below, “Laws Governing Information Sharing”) Second, even when information sharing is allowed by law, it should be done only on a “need to know” basis. The “need to know” concept has two applications, one for the sharing of information between agencies, and one that applies to uses of information within an organization or agency.

When *disclosing* information to another agency, or *requesting* confidential information from another, you should make reasonable efforts to limit the disclosure or request to the minimum necessary to accomplish the intended purpose of the disclosure or request. When using confidential information within an organization, the exchange of information among members of the workforce should be guided by organizational policies that identify the persons or classes of persons who need the information to carry out their duties and limit access to information accordingly.

Finally, when information sharing is done pursuant to the written consent of the person who is the subject of the information, the terms of the consent form itself should guide and inform the “need to know,” for any valid consent form will say what information is permitted to be shared, to whom it may be disclosed, and for what purpose. Ensure that the information you are sharing is in line with the law and/or consent authorizing the sharing of information. This means determining the “need to know” based on the purpose of the information sharing described in the consent-for-release-of-information form or the provision of law that allows disclosure. In many cases, this will mean limiting the information shared and the people who have access to it, which may require redacting information from records to maintain the confidentiality of information that is not needed or permissible to disclose.

9. What limits should be placed when documenting personally identifiable information?

Efforts should be made to protect all personally identifiable information for which you have access, whether you have it in hard copy or electronically. In general, try to limit the number of documents that contain personally identifiable information on them (i.e. use unique identifier instead of client’s name or social security number). Proper safeguards should also be in place to protect electronic files, especially if transmitting information from one party to another.

When sharing information for program development or evaluation purposes, it may be necessary to share identifiable information to match records initially. However, once the data can be matched and aggregated, remove the identifiable information that is not pertinent to your analysis.

For more information on protecting confidential information and national standards for electronic health information, visit the Office for Civil Rights, Health Information Privacy (<http://www.hhs.gov/ocr/office/index.html>) or review the Health Information Technology for Economic and Clinical Health Act (HITECH Act) (<http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>)

Juvenile Justice-Behavioral Health



Laws Governing Information Sharing

Juvenile Justice

10. What laws govern how we may share juvenile justice information?

The North Carolina Juvenile Code (Chapter 7B of the NC General Statutes) is the primary source of law governing the disclosure of information and records relating to juveniles in the juvenile justice system. Generally, all records and information concerning juveniles who are involved in the juvenile justice system are confidential. As a result, a court order is usually required before confidential information about juveniles may be shared. However, there are some exceptions to this rule, which are discussed further below.

The Juvenile Code contains a couple of provisions that broadly protect juvenile justice information, establishing a general rule of confidentiality, and then defines and treats separately several categories of juvenile justice records. For example, the Juvenile Code strictly prohibits the disclosure of any information “that would reveal the identity” of a juvenile who is under investigation or alleged to be within the jurisdiction of the juvenile court (G.S. 7B-3100(b) and G.S. 7B-3102). However, photographs of juveniles may be disclosed to the public in two circumstances: (1) with parental consent, when a juvenile runs away from home; and (2) within 24 hours of a juvenile’s escape from a juvenile justice facility.

The Juvenile Code defines and treats separately the following records, each with their own rules on information sharing: Juvenile Court Records (also known as the Juvenile Record), the Juvenile Court Counselor’s Record, Diversion Records, and Law Enforcement Records.

11. What is the “Juvenile Record” (Juvenile Court Record) and what does the law say about this juvenile justice information?

The clerk of superior court maintains a record for each juvenile involved in the juvenile justice system, which is known as the “juvenile record” (G.S. 7B-3000). This is a juvenile court record that includes all court documents, recordings of hearings, and any other written motions or orders filed in a juvenile court proceeding. In each county, a juvenile has a single record, with one file number, which includes all court documents relating to that juvenile, even if the juvenile has been involved in multiple court proceedings. This record is confidential and may be examined only by court order. However, the following persons may examine and obtain copies of written parts of the record, without a court order:

1. the juvenile or his/her attorney;
2. the juvenile’s parent, guardian, or custodian;
3. the authorized representative of the juvenile’s parent, guardian, or custodian;
4. the prosecutor;
5. juvenile court counselors; and
6. adult probation officers (in very limited circumstances).

A prosecutor may also share information from the juvenile record with sworn magistrates and law enforcement officers but may not allow them to obtain photocopies.

As an additional protection, the Juvenile Code allows a judge to “seal” parts of the juvenile record. If a judge has directed the clerk to seal any part of a juvenile record, no one, including persons listed above, may view that part of the record, without a court order.

12. What is the “Juvenile Court Counselor’s Record” and what does the law say about this information?

The chief court counselor in each judicial district maintains a separate record for each juvenile who is under the supervision of a juvenile court counselor, which is known as “the juvenile court counselor’s record” (G.S. 7B-3001(c)). In addition to the items in the “juvenile record,” the juvenile court counselor’s record contains information collected by court counselors, such as family background information; social, medical, or psychological reports; probation reports; interviews with the juvenile or the juvenile’s family; and educational records. This record also may contain information related to a juvenile’s period of confinement in detention or a youth development center. The juvenile court counselor’s record is confidential and may be examined only by court order. However, the following persons may examine and obtain copies of the record, without a court order:

1. the juvenile and his/her attorney;
2. the juvenile’s parent, guardian, or custodian;
3. the authorized representative of the juvenile’s parent, guardian, or custodian;
4. juvenile justice professionals who are “directly involved in the juvenile’s case”; and
5. juvenile court counselors.

There is no provision allowing a judge to “seal” parts of the juvenile court counselor’s record. However, the list of persons authorized to view this record is smaller than the list that applies to the juvenile record held by the clerk of court.

Also, to protect the juvenile’s constitutional right against self-incrimination, no statements made by the juvenile to a court counselor during intake may be disclosed to the court prior to an adjudication that the juvenile is delinquent. Court counselors are also prohibited from preparing a pre-dispositional report for the court prior to an adjudication of delinquency, unless the juvenile, the juvenile’s parent, guardian, or custodian, or the juvenile’s attorney provides written consent.

13. What are “Diversion Records” and what does the law say about these records?

A juvenile court counselor may divert a juvenile from the juvenile court system, pursuant to a diversion plan which may include a referral to one or more community based resources, such as a community service, private counseling, or teen court program. As part of the diversion plan, the court counselor may also enter into a diversion contract, for up to 6 months, with the juvenile and the juvenile’s parent, guardian, or custodian. If the juvenile successfully completes the diversion contract, the matter will not be referred to court. However, violation of the contract may result in the filing of a petition by the court counselor. A diversion contract requires the written consent of the juvenile and the juvenile’s parent, guardian, or custodian and must be signed by all parties.

Diversion contracts are confidential records maintained only by juvenile court counselors, until the juvenile turns 18 or the court no longer has jurisdiction, whichever is longer (G.S. 7B-1706). They are part of the Juvenile Court Counselor’s Record, mentioned above, but are not included in the juvenile record held by the clerk of court, and must be withheld from public inspection. However, after a diversion contract has been signed, the juvenile court counselor must notify any agencies or other parties from which the juvenile will be seeking services or treatment pursuant to the diversion plan. The juvenile and the juvenile’s parent, guardian, or custodian must also be given a copy of the diversion contract.

14. What does the law say about the sharing of “law enforcement records?”

The Juvenile Code restricts access to law enforcement records relating to juveniles who are involved in the juvenile justice system (G.S. 7B-3001(b)). Law enforcement records concerning juveniles are confidential and must be kept separate from records and files relating to adults. Only the following persons may examine and obtain copies of law enforcement records, without a court order:

1. the juvenile or his/her attorney;
2. the juvenile's parent, guardian, or custodian;
3. the authorized representative of the juvenile's parent, guardian, or custodian;
4. the prosecutor;
5. juvenile court counselors; and
6. sworn law enforcement officers.

15. May juvenile justice information be shared with other individuals if a parent or guardian consents to the disclosure?

Some of the laws and regulations governing the disclosure of confidential records relating to juveniles, such as the federal laws governing education records and substance abuse records (see below), specifically authorize the release of those records to third parties based on the written consent of the juvenile or the juvenile's parent. (By "parent," we mean the parent, guardian, or other person legally responsible for the juvenile, such as a legal custodian).

However, the Juvenile Code addresses the consensual disclosure of juvenile justice records in only one limited circumstance – photographs of juveniles who have runaway from home may be released with parental consent. Otherwise, the Code neither specifically authorizes nor prohibits the release of confidential juvenile justice records and information to third parties based on the written consent of the juvenile or parent.

However, it is clear that the juvenile and the juvenile's parent, guardian, or custodian may personally obtain copies of any records relating to the juvenile (the four categories of information discussed above) without a court order, and the laws applying to this information do not prohibit the juvenile or parent from sharing these records with others. If they can access and share information in this way, one can reasonably argue that a juvenile and the juvenile's parent, guardian, or custodian have implied authority to waive the confidentiality protections of the Juvenile Code in circumstances where the waiver (or consent to disclose) is voluntary, informed, and narrowly tailored to further both the interests of the juvenile in receiving effective services and the ability of the juvenile justice system to provide those services. The "Juvenile-Justice—Behavioral Health" consent form accompanying this guide can be used by the juvenile and the juvenile's parent, guardian, or custodian to permit juvenile justice agencies to share the juvenile's records directly with third parties who are serving the juvenile justice needs of the juvenile for all purposes stated in the consent form.

16. Are there circumstances when juvenile justice information can be shared without a consent form?

Yes. Juvenile justice records and information may be shared without consent in the following circumstances:

1. Designated agencies (see description below in question 17) may share information when necessary for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, pursuant to G.S. 7B-3100(a) and 14B NCAC 11A .0301.
2. Authorized persons (who are identified above for each category of records) may examine and photocopy records contained in the juvenile record (held by the clerk of court), the juvenile court counselor's record, and law enforcement records, pursuant to G.S. 7B-3000 and G.S. 7B-3001.
3. A juvenile court counselor may share information relating to a diversion contract with agencies or parties from whom the juvenile will be seeking services or treatment, pursuant to G.S. 7B-1706.
4. Juvenile justice agencies may disclose photographs and other limited information to the public relating to juveniles who escape from their custody, pursuant to 7B-3102.

There are also some special circumstances where state law would apply to *require* juvenile justice agencies to disclose confidential information about juveniles. One example is the requirement that a juvenile court counselor notify the

principal of the juvenile's school about certain actions, including the filing or dismissal of a juvenile petition alleging the juvenile committed a felony offense, the transfer of the juvenile's case from juvenile to superior court, or the modification of any order concerning a juvenile either alleged or found to be delinquent.

17. You say that “designated agencies” may share information without consent when necessary for the protection of the juvenile. Tell me more. What information may be shared, by whom, and when?

One major exception to the general rule of confidentiality is a statute that *requires* designated agencies to share with one another, upon request, information that is “relevant to any case in which a petition is filed” alleging that a juvenile is delinquent or undisciplined (G.S. 7B-3100(a)). However, there are three important limitations to this requirement: the information shared must (1) remain confidential, (2) be withheld from public inspection, and (3) be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile. Also, the duty to share under this state law does not preempt or supersede any agency's duty to comply with applicable federal laws and regulations governing health, substance abuse, and educational records, including the Family Educational and Privacy Rights Act (FERPA). For example, FERPA places additional restrictions on a school's authority to disclose confidential education records to juvenile justice agencies without consent (see question 48 below). The agencies designated by administrative rule (14B NCAC 11A .0301) to share information are:

1. NC Department of Public Safety, Juvenile Justice Section;
2. Office of Guardian Ad Litem Services of the Administrative Office of the Courts;
3. county departments of social services;
4. area mental health, developmental disability, and substance abuse authorities;
5. local law enforcement agencies;
6. district attorney's offices;
7. county mental health facilities, developmental disabilities and substance abuse programs;
8. local school administrative units;
9. local health departments; and
10. any local agency designated by an administrative order of a chief district court judge.

The duty to share information pursuant to this rule continues until the juvenile court's jurisdiction is terminated.

It is important to emphasize that agencies who share juvenile justice information with other agencies, pursuant to this statute, must only do so when necessary “for the protection of the juvenile and others or to improve the educational opportunities of the juvenile.” This statute does not authorize information sharing between agencies for any other purpose, such as to facilitate the investigation of a crime or gather evidence for a court proceeding. Therefore, a consent form specifying additional purposes, such as program evaluation must be used to cover information sharing not subject to this statute. For a description of how this law applies to the sharing of confidential mental health, developmental disabilities, and substance abuse information, see questions 21 and 25 below.

Mental Health and Developmental Disabilities

18. What laws govern how mental health and developmental disabilities information may be shared?

The sharing of mental health and developmental disabilities information is governed by state law, specifically the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985, which can be found in Chapter 122C, Sections 52-56, of the North Carolina General Statutes (G.S. 122C-52 through -56), and regulations promulgated by the North Carolina Department of Health and Human Services (10A NCAC 26B).

In addition, a federal law called The Health Insurance Portability and Accountability Act of 1996, and its implementing regulations at Chapter 45 of the Code of Federal Regulations, Parts 160 and 164 (45 C.F.R Parts 160, 164 or “Privacy Rule”) govern the use and disclosure of all healthcare information, including information relating to the treatment and care of mental illness and developmental disabilities. Generally, information acquired or created in connection with serving individuals with mental illness or developmental disabilities is confidential and may not be disclosed except as permitted or required by these laws.

19. May an individual receiving mental health or developmental disabilities services consent to the disclosure of his or her confidential information?

Yes. Both G.S. 122C and the federal Privacy Rule permit a provider of mental health or developmental disabilities services to disclose confidential information pursuant to the consent of the person receiving services. A person who will receive, is receiving, or has received services may authorize his or her service provider to share confidential information with others, if the authorization is made in writing and contains the information that G.S. 122C, state regulations, and the federal Privacy Rule require for a valid authorization.

However, while any adult who has not been adjudicated incompetent is legally qualified to authorize the disclosure of his or her own service information, when the recipient of services is a juvenile, the law generally requires that the consent to disclose information be provided by someone other than the juvenile, someone who is legally responsible for making healthcare decisions for the juvenile.

20. Who may consent to the sharing of a juvenile’s confidential mental health or developmental disabilities information?

Because a juvenile generally is not considered legally competent to consent to health, mental health, or developmental disabilities services (for exceptions, see question 29), the person legally responsible for the juvenile—the juvenile’s parent, guardian, or legal custodian—must consent to the juvenile receiving services before services can be provided. In this situation, it is the legally responsible person for the juvenile, not the juvenile, who has the legal capacity to authorize the sharing of confidential mental health and developmental disabilities information, and any consent form authorizing disclosure would have to be signed by a legally responsible person. For more specific information about the categories of legally responsible persons who may sign a consent form authorizing the sharing of juvenile mental health or developmental disabilities information, see the section below on “Requirements for Consent Form.”

21. Are there circumstances when information may be shared without consent?

Yes, there are state laws that permit or require information sharing without consent in specific circumstances. At the request of a juvenile court counselor or other person acting under the auspices of the Juvenile Justice Section of The Division of Adult Correction and Juvenile Justice, a Local Management Entity-Managed Care Organization (LME-MCO) (see question 5, for a description) must disclose mental health or developmental disabilities information in its possession that is relevant to any case in which a petition is filed alleging that a juvenile is undisciplined or delinquent (G.S. 7B-3100; 14B NCAC 11A .0301) (See question 17, above).

There are two notable caveats to this law. Currently the law applies only to those mental health and developmental disabilities services providers designated by an administrative order issued by the chief district court judge of the district court district in which the provider is located, for the regulation does not generally designate providers of mental health and developmental disabilities services. And, this law does not permit the sharing of substance abuse treatment information. When disclosing any mental health or developmental disabilities information pursuant to this law, if any substance abuse treatment information also appears in the records, that information must be redacted before the records are disclosed (see questions 22-25).

Substance Abuse

22. What state or federal laws govern how confidential substance abuse information may be shared?

The sharing of substance abuse information is governed by a state law, the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985, which can be found in Chapter 122C, Sections 52-56, of the North Carolina General Statutes (G.S. 122C-52 through -56) and regulations promulgated by the North Carolina Department of Health and Human Services (10A NCAC 26B). In addition, the federal Public Health Service Act and its implementing regulations at Chapter 42 of the Code of Federal Regulations, Part 2 (42 C.F.R Part 2) govern the use and disclosure of alcohol and drug abuse patient records. Finally, the HIPAA Privacy Rule, identified above as applying to mental health treatment information (see question 18), also applies to substance abuse treatment information. Generally, information acquired by a substance abuse program in connection with providing substance abuse services is confidential and may not be disclosed except as permitted or required by these laws.

23. May an individual receiving substance abuse services consent to the disclosure of his or her confidential substance abuse information?

Yes. The North Carolina statutes at G.S. 122C, the federal Privacy Rule, and the federal regulations governing alcohol and drug abuse patient records, permit a provider of substance abuse services to disclose confidential information pursuant to the consent of the person receiving services. A person who will receive, is receiving, or has received substance abuse services may authorize his or her treatment provider to share confidential substance abuse services information with others, if the authorization is made in writing and contains the information and elements required by the state confidentiality rules (10A NCAC 26B), the federal Privacy Rule, and the federal regulations governing substance abuse patient records (42 C.F.R 2). However, when the person receiving services is a juvenile who is being treated pursuant to a legally responsible person's consent for treatment, the law requires that a parent or other legally responsible person, in addition to the juvenile, sign any written authorization for the disclosure of substance abuse services information.

24. Who must sign a consent to disclose confidential substance abuse information relating to a juvenile?

Generally, a juvenile is not considered legally competent to consent to receiving substance abuse services. (For exceptions, see question 29.) Instead, the person legally responsible for the juvenile—the juvenile's parent, guardian, or legal custodian—must consent to the juvenile receiving services before services can be provided. In this circumstance—where the person receiving substance abuse services is a juvenile and a parent or other person legally responsible for the juvenile is consenting to the services—any consent for the disclosure of substance abuse information relating to those services must be signed by both the juvenile and a legally responsible person.

For more specific information about the categories of people who qualify as “legally responsible” to sign a consent form authorizing the sharing of juvenile substance abuse information, see the section below on “Requirements for Consent Form.”

25. Are there circumstances when information may be shared without a consent form?

Very few. The state law that requires the sharing of mental health information when it is relevant to a case in which a petition is filed alleging that a juvenile is undisciplined or delinquent, (see question 21, above), does not apply to substance abuse services information governed by 42 C.F.R. Part 2. Even the sharing of information to coordinate care and treatment or to seek authorization or reimbursement for services requires the written authorization of the recipient of services.

However, substance abuse services information may be disclosed without consent in medical emergencies; to report suspected child abuse, neglect, or dependency as required by state law; and when required by a court order issued in compliance with the requirements of 42 C.F.R. Part 2.

Requirements for the Consent Form

26. What are the requirements for a valid consent-for-release-of-information form?

In North Carolina, the Department of Health and Human Services has promulgated rules that set forth the information that must be contained in a consent-for-release-of-information form relating to mental health, developmental disabilities, and substance abuse services information (10A NCAC 26B). The federal regulations governing substance abuse patient records and the HIPAA Privacy Rule governing health records also set forth content requirements for a patient's written authorization to disclose information.

The consent form presented as part of this guide—the “Juvenile Justice-Behavioral Health” consent form—complies with these state and federal laws if the consent form is fully completed when executed, as it includes or solicits the following required information:

1. the patient's name.
2. the name of facility or person disclosing the information.
3. the name of individual or individuals, agency or agencies to whom information is being released.
4. the information to be released.
5. the purpose of the disclosure.
6. the date, event, or condition upon which the consent will expire if not revoked before (the authorization may not exceed one year).
7. a statement that notifies the signing individual that the consent may be revoked at any time except to the extent that action has been taken in reliance on the consent.
8. the signature(s) of the required persons (see question 27)
9. a description of the representative's authority to act for the individual (if the consent is signed by a legally responsible person).
10. a statement that treatment, payment, enrollment, or eligibility for benefits may not be conditioned on obtaining the consent.
11. a statement about the potential for information disclosed pursuant to the consent to be no longer protected by the HIPAA Privacy Rule.
12. the date the consent is signed.

Individuals signing this form should be informed that they are entitled to a copy of the signed and completed version of the form (a copy made after it is executed). A copy should be made available to them upon the completion of the form unless they expressly say they prefer not to receive a copy.

27. Who must sign the consent form?

You should ask both (1) the juvenile and (2) the juvenile's parent, guardian, or legal custodian to sign the “Juvenile Justice-Behavioral Health” consent form. Executed in this fashion, the form permits the juvenile justice system to disclose juvenile justice information to others in accordance with the terms of the written consent. (See question 15 for a discussion of the juvenile's and parent's implied authority to waive the confidentiality protections of the Juvenile Code.) If signed by the juvenile and the juvenile's legally responsible person, the form also would allow providers of mental health, developmental disabilities, and substance abuse services to disclose assessment, diagnosis, and other treatment information relating to the juvenile to the juvenile justice system and others in accordance with the terms of the written consent, provided that the information shared pertains to services that are delivered to the juvenile pursuant to the permission (consent to treatment) of the juvenile's parent, guardian, or legal custodian.

If records exist of treatment services that a juvenile received pursuant to the juvenile's consent to treatment alone, any process for seeking permission to disclose those records, and any signatures on a written authorization to disclose

records, should not involve the juvenile's legally responsible person. See questions 29-30 for what to do about behavioral health services provided to a juvenile pursuant to the juvenile's consent to treatment alone.

28. What happens if the juvenile is unavailable or unwilling to sign the consent form?

If the juvenile cannot or refuses to sign the consent form and only the juvenile's parent, guardian, or legal custodian signs the form, then all of the information listed in the "Information To Be Shared" section of the form can still be disclosed except information relating to substance abuse services. The disclosure of any information that would identify the juvenile as an applicant or recipient of substance abuse services, where those services are applied for or received pursuant to a parent's, guardian's, or legal custodian's consent to treatment, requires the written and signed authorization of both the juvenile and the juvenile's legally responsible person.

29. Is it permissible for a juvenile to consent to mental health and substance abuse services without parental knowledge or involvement?

In North Carolina it is legally permissible for a juvenile to give consent to a physician for *outpatient* treatment for mental illness or substance abuse. (Inpatient treatment requires parental consent.) Notwithstanding the infrequent occurrence of a juvenile consenting to his or her own outpatient mental health or substance abuse services, when it does occur, the juvenile's right to confidentiality includes the right to keep the treatment relationship confidential and, generally, the provider may not disclose the existence of the treatment relationship to the juvenile's legally responsible person, the juvenile justice system, or others without the juvenile's written consent. Any consent to disclose treatment information in this situation must, in the first instance, be given by the juvenile alone. Thus, a consent process involving the parent and requesting a parent's signature is not one that is not legally or practically appropriate for obtaining this kind of information.

30. What should I do about the possibility of a juvenile obtaining treatment pursuant to his or her own consent to treatment?

It is anticipated that any mental health or substance abuse assessment, diagnosis, and treatment services provided to a juvenile as a result of a juvenile justice system referral will be provided with the consent to treatment of a parent, guardian, or legal custodian. Many providers of outpatient mental health and substance abuse services lack the staffing required to legally provide services pursuant to the consent to treatment of a juvenile alone (a physician supervising individual care), and of those that do, most choose to require the consent and involvement of the juvenile's legally responsible person.

If a parent, guardian, or legal custodian consents to the treatment for which records are sought, a consent-to-release-of-information form signed by both the juvenile and either a parent, guardian, or legal custodian will allow mental health, developmental disabilities, and substance abuse services providers to share information with others for the purposes described in the Juvenile Justice-Behavioral Health consent form accompanying this Guide. To permit this information sharing and to allow the juvenile justice system to disclose juvenile justice information, the accompanying form should be signed by both the juvenile and a person legally responsible for the juvenile's healthcare decisions. (For those who qualify as legally responsible persons, see questions 31-37.)

The most likely scenario involving records pertaining to mental health or substance abuse treatment that the juvenile consents to without parental involvement is where there exists a treatment relationship between the juvenile and a provider of services *prior* to the juvenile's contact with the juvenile justice system, and prior to a juvenile justice system referral to services provided pursuant to the consent to treatment of the juvenile's legally responsible person. If you decide that information relating to such a prior treatment relationship needs to be shared with the juvenile justice system or the service providers that the juvenile is being referred to, then you should seek the juvenile's written authorization to disclose the information through a consent process not involving the juvenile's legally responsible person, unless the juvenile first separately authorizes disclosure to his or her legally responsible person.

31. Who is legally responsible for a juvenile when it comes to deciding whether to authorize the disclosure of juvenile justice and behavioral healthcare information?

A juvenile's legally responsible person is the juvenile's parent, guardian, or legal custodian. Obviously, there are some situations when more than one legally responsible person exists, as a juvenile may have two parents in his or her life, or even a parent and a legal custodian. Any legally responsible person may authorize the disclosure of juvenile justice and behavioral health information.

32. Does it matter which parent signs the consent form?

Any parent may authorize information sharing. For these purposes, "parent" means the biological or adoptive mother or father of the juvenile. Any of these individuals may sign the form unless a court has terminated parental rights or has granted sole custody to one parent.

33. What if the parents are separated or divorced?

Whenever parents are legally separated or divorced, or have never been married, the "parent" who may consent to treatment and consent to the release of information about that treatment is the parent granted custody, or either parent when joint custody has been granted. If no custody order has been entered, and parental rights have not otherwise been terminated, then either parent may sign the consent form authorizing the sharing of treatment information.

34. Who is a guardian?

"Guardian" means a person appointed as a guardian of the person or general guardian by the court under Chapters 7B and 35A of the North Carolina General Statutes. When a minor either has no natural guardian or has been abandoned, the clerk of superior court may appoint a general guardian or guardian of the person for the juvenile. In addition, the juvenile court may appoint a guardian of the person for a juvenile whose parent fails to appear in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile. When assisting an individual who purports to be a juvenile's guardian, you may verify the individual's authority to act on behalf of the juvenile—unless his or her authority is already known—by asking to see a copy of the court's guardianship order.

35. What is a legal custodian?

"Legal custodian" means a legal custodian other than a parent who has been granted specific authority *by law or in a custody order* to consent for medical care, including psychiatric treatment. For example, when a district court finds that a child is abused, neglected, or dependent, the judge may remove the child from the custody of the parent or person who has legal custody and place the child in the custody of another person or agency, usually the local department of social services (DSS). DSS is then responsible for making arrangements for the child's care. In this situation, DSS is considered "a legal custodian . . . who has been granted specific authority . . . *in a custody order* to consent to medical care, including psychiatric treatment" if the custody order specifically authorizes DSS to consent to medical care, including psychiatric treatment. If so, DSS may consent to behavioral healthcare services and consent to disclose information relating to those services, and the DSS director, or personnel acting on behalf of the DSS director, may sign the consent form authorizing information sharing.

36. How will I know if a custody order specifically says that DSS may consent to medical care, including psychiatric treatment?

You can ask to see a copy of the custody order. Alternatively, you may verify the authority of DSS to act on behalf of the juvenile by asking DSS to submit a written statement of its legal authority to consent to treatment for the child. In this letter, DSS could represent that the custody order grants it the authority to consent to medical care, including psychiatric treatment. If DSS has this authority, then it may consent to mental health, developmental disabilities, and substance abuse treatment, and as a consequence, it would have the authority to consent to the disclosure of

information relating to such treatment. In this circumstance, a DSS representative may sign the consent form authorizing information sharing.

37. What if the custody order does not contain a provision granting DSS the authority to consent to treatment? What does it mean to be granted authority “by law” to consent to treatment?

If the custody order does not specifically authorize DSS to consent to treatment, then DSS does not qualify as a legal custodian for purposes of signing a consent for release of information unless there is a law—a statute or regulation—that grants DSS the authority to consent to treatment. Under certain conditions, several provisions of the Juvenile Code grant the director of DSS the authority to arrange for, provide, or consent to psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile (See G.S. 7B-903(2)(c); 2503(1)(c); and 2506(1)(c)) but this authority is not automatic and arises only if the following conditions have been met:

1. A judge has placed the child in the custody or physical custody of a county department of social services pursuant to a dispositional order under G.S. 7B-903, -2503, or -2506;
2. The judge has not "otherwise ordered" (i.e., no provision of the court order overrides the statutory authority of DSS to consent to treatment);
3. The parent is unknown, unavailable, or unable to act on the child's behalf; and
4. The director has made reasonable efforts to obtain consent from the parent or guardian of the affected child.

To verify that DSS has the authority to consent to treatment for a particular juvenile by operation of these laws, and therefore the authority to consent to disclose information by signing the consent form, you can ask DSS to submit a written statement of its legal authority with respect to the particular juvenile.

38. What happens if a parent chooses not to sign a consent to disclose information regarding his or her child?

Parents, guardians or custodians can exercise their right not to release confidential information about their child(ren). There may be many reasons that a parent, guardian or custodian may not want to release information, which may be due to the personal nature of the information, inability to trust others with their personal information, or the need for additional information about how the information will or will not be used. If the accompanying “Juvenile Justice-Behavioral Health” consent form, or some other valid consent form, is not signed, then juvenile justice personnel may not disclose juvenile justice information, and behavioral health services providers may not disclose confidential behavioral health information, to other individuals or agencies serving the juvenile except as otherwise authorized by law.

39. Can a person who signed the consent form change his or her mind and revoke their consent?

Yes. The parent, guardian or custodian may stop information sharing, or prevent further information sharing, by revoking the authorization at any time. So may the juvenile. If both the juvenile and the juvenile's legally responsible person sign a consent form, then either one alone may revoke the consent, in which case the consent is no longer valid. Any signatory to the consent may independently revoke his or her consent, and only a signatory may revoke. (If a parent alone signs a consent, the juvenile has no authority to revoke the parent's authorization.) Although a consent to disclose information may be revoked, any information sharing that was done pursuant to the consent form before it was revoked is still lawful. See question 42 for more about what may happen when consent is revoked.

40. What should I do if the juvenile—or a parent, guardian, or custodian—wants to revoke the authorization?

If you are able to, you should assist the individual in completing the revocation section of the consent form that he or she previously executed. A revocation may be executed for the entire consent form, removing the authority to share information from all parties listed on the front of the form. Alternatively, authorization to receive and disclose

information may be revoked with respect to one or some parties, leaving the authorization intact for the remaining parties. The consent form provides two written revocation sections, one for use when a signatory to the consent wants to revoke the entire consent and one when a signatory wants to remove authority from only one or more parties and continue to permit other designated parties to share information.

If either revocation section of the form is executed, you should make copies and distribute the form, with the completed revocation section, to all parties designated on the original consent form so that all parties are aware that the authorization to receive and disclose information has changed.

41. What should I do if someone says they no longer want information sharing to take place, but is not available or able to put the revocation in writing?

Because the laws governing mental health, developmental disabilities, and substance abuse information do not require that a revocation be put in writing, a verbal revocation should be honored. Every effort should be made to have the revoking party sign a written revocation, but if that is not possible, you will need to document a verbal revocation by putting it in writing and sending copies to the parties listed on the front of the original consent form. The consent form includes a section for this purpose at the end of the form. Once you complete this section, you should make copies and distribute the consent and revocation of consent to all parties designated on the original consent form so that all parties are aware that the authorization to receive and disclose information has changed.

42. What happens when the consent to share information is revoked?

If revoked, the consent does not authorize any further disclosures of information except “to the extent that a person or agency which is to make a disclosure has already taken action in reliance on it.” (This exception is stated in the “Revocation and Expiration” section of the consent form.) An example of this would be where a substance abuse services provider has provided a substance abuse assessment for the juvenile with the understanding, based upon the consent to share information, that it would be able to release information to an LME-MCO or other third party payer so it could receive payment for the assessment services. When conducting the assessment, the substance abuse services provider would have acted in reliance on the consent for release of information because it performed the assessment in reliance on the authority to disclose information for purposes of getting paid for the service provided.

43. What happens if, after signing the consent form, the status of the parent, guardian, or legal custodian changes in a way that he or she no longer has the authority to consent to the release of information? Is the consent to share information still valid?

There are instances where a person acting on behalf of a juvenile may, subsequent to signing the consent form, lose the legal authority to act on the juvenile’s behalf. If a parent signs the form and, through subsequent separation or divorce, a custody order is entered granting the other parent the sole authority to consent to treatment for the juvenile, the parent who initially permitted the information sharing no longer has the authority to do so. In this or any other circumstance where a signatory loses the authority to act on behalf of a juvenile, you should notify the other information sharing parties designated on the form, cease sharing information pursuant to the initial consent form, and seek to have another parent, guardian, or legal custodian execute and sign a new consent form.

Consent Form

Juvenile Justice - Behavioral Health

The “Juvenile Justice-Behavioral Health” consent form was designed to permit sharing among the juvenile justice system, providers of mental health, developmental disabilities, and substance abuse services, agencies assisting in the coordination of services, community-based providers that may be involved in the youth’s services or treatment, and other parties as identified by the parent, guardian or legal custodian such as natural supports that they would like to have access to this information. Refer to the Appendix for the consent form and instructions for completing.

North Carolina Department of Public Safety, Juvenile Justice

Juvenile Justice – Behavioral Health

Multiple-Party Consent for Release of Information

Medical/Other Insurance #:	
Medical Record #:	
NCJIS #:	

Juvenile's Full Name: _____ DOB: _____
 Parent, Guardian, or Custodian: _____ County: _____

I authorize the NC Department of Public Safety, Juvenile Justice (hereinafter, "JJ") and the following parties:

<p>(1) Mental Health, Developmental Disabilities, or Substance Abuse Services Provider</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p>(2) Local Management Entity/Managed Care Organization (if necessary to authorize services)</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>
<p>(3) Agency to facilitate multi-system coordination</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p>(4) Other</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>
<p>(5) Other</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p>(6) Other</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>

To communicate with and disclose to one another the following information relating to the juvenile named above.

INFORMATION TO BE SHARED:	
<ol style="list-style-type: none"> 1. Name, address, and other personal identifying information of the juvenile 2. JJ Assessments (BAIN-33, DAT, fitness, risk and needs, etc.) 3. JJ Juvenile Family Data Sheet/Social History 4. JJ Individualized Service Plans, Commitment Summaries, Behavior Summaries, and Updates 5. Mental health assessment and treatment information, including treatment plans and discharge summaries 6. Mental health treatment progress and compliance reports 7. Drug screening and testing results 8. Substance abuse assessment and treatment information, including treatment plans and discharge summaries 9. Substance abuse treatment progress and compliance reports 10. Developmental disabilities assessment and service information, including service plans and discharge summaries 	<ol style="list-style-type: none"> 11. Health information 12. Reportable communicable disease information, including HIV, sexually transmitted infections, hepatitis, and tuberculosis 13. Financial information, including health plan or health benefits information 14. Service plan and treatment outcomes, including information submitted to the North Carolina Treatment Outcomes and Program Performance System 15. Other (specify, if any) _____ <p><small>Note: I authorize all of the foregoing information to be shared unless I indicate here, by number, one or more categories of information not to be shared:</small></p> <p>_____</p> <p>_____</p>

1

Requirements for Maintaining Confidentiality

Juvenile Justice Information

44. Once I receive juvenile justice information pursuant to consent for release of information, do I have an obligation to maintain the privacy of the information?

The North Carolina Juvenile Code does not expressly address the disclosure of juvenile justice information pursuant to the consent of the juvenile and the juvenile's parent, guardian, or legal custodian (for a detailed explanation, see question 15), and thus, it also does not address any requirements for maintaining the confidentiality of information obtained by consent. However, as explained above, the Juvenile Code generally prohibits the disclosure of any information "that would reveal the identity" of a juvenile who is under investigation or alleged to be within the jurisdiction of the juvenile court (G.S. 7B-3100(b) and G.S. 7B-3102). Although this general rule of confidentiality likely applies only to custodians of official records concerning juveniles (e.g. court counselors, clerks of court, prosecutors, and law enforcement officers), treatment providers who receive juvenile justice information pursuant to the consent of the juvenile and the juvenile's parent, guardian, or legal custodian should also maintain the confidentiality of that information as a matter of policy based on the Juvenile Code's intention to protect juvenile information.

Note, however, that if you receive juvenile justice information pursuant to the state law that allows "designated agencies" to share information in certain circumstances (see question 17), the Juvenile Code expressly requires that any information shared must remain confidential and be withheld from public inspection (G.S. 7B-3100(a)). Thus, you are prohibited from further disclosing the information unless further disclosure is expressly permitted by written consent (the initial consent or an additional consent) or as otherwise permitted by state law.

Mental Health Information

45. Once I receive mental health or developmental disabilities information pursuant to consent for release of information, do I have an obligation to maintain the privacy of the information?

If you receive mental health or developmental disabilities information pursuant to the consent of the juvenile and juvenile's parent, guardian, or legal custodian, you are prohibited from further disclosing the information unless further disclosure is expressly permitted by written consent (the initial consent or an additional consent) or as otherwise permitted by the state laws governing providers of mental health and developmental disabilities services. This is true even if you are not a provider of mental health or developmental disabilities services.

Substance Abuse Information

46. Once I receive substance abuse treatment information pursuant to consent for release of information, do I have an obligation to maintain the privacy of the information?

If you receive substance abuse treatment information pursuant to the consent of the juvenile and juvenile's parent, guardian, or legal custodian, you are prohibited from further disclosing the information unless further disclosure is expressly permitted by written consent (the initial consent or an additional consent) or as otherwise permitted by the federal regulations governing substance abuse records. This is true even if you are not a substance abuse treatment program.

Memorandum of Understanding

Due to the complexity of sharing information across systems and agencies, a memorandum of understanding (MOU) is a great tool to make sure that all parties are clear about their roles and responsibilities in terms of sharing and protecting information.

A Memorandum of Understanding template that may be used by local teams to govern their agreements has been provided in the Appendix. To execute a memorandum of understanding, teams should do the following:

- Ensure the MOU accurately reflects the agreed upon responsibilities of each party to the agreement
- Identify any additional issues that the team wants to be reflected, such as larger agreements about service coordination
- Determine all parties that should be subject to the MOU, including Juvenile Justice District(s); Administrative Office of the Court District(s); Local Management Entity/Managed Care Organizations (LME-MCOs); Provider(s) of Mental Health, Developmental Disabilities, or Substance Abuse Services, and Community Based Providers (Juvenile Crime Prevention Council Service Providers, agencies facilitating cross-system collaboration, and other community-based service providers regularly subject to information sharing).
- Modify the document to properly identify the county or district subject to the agreement, list agency names for all parties in Section I and VII, and have each party's authorized representative sign and date the document.
- Identify any documents to which all parties are agreeing to use pursuant to the MOU, such as consent form, referral forms, screening or assessment tools, etc.
- All parties should have a copy of the full executed copy of the document.

Education



Laws Governing Information Sharing

47. What laws govern how we may share education records?

In addition to state laws governing juvenile justice information, there is an additional category of information pertaining to juveniles that is governed by federal law. The Family Educational and Privacy Rights Act, or “FERPA” (20 U.S.C. 1232g and 34 C.F.R. Part 99) governs the disclosure of confidential information from education records. FERPA defines the term “education records” as records, files, documents, and other materials maintained by a school or other educational agency, which contain information directly related to a student. FERPA prohibits schools from disclosing education records (or “personally identifiable information” from those records) to other parties without the prior written consent of a parent or, if the student is 18 or older, the student. However, there are some exceptions to the requirement that schools obtain the prior written consent of a parent or student before disclosing information to juvenile justice agencies, as explained below.

48. What are the circumstances that permit schools to share information without consent?

FERPA allows schools and other local education agencies to disclose confidential education records to juvenile justice agencies, without parental or student consent, when:

1. the disclosure is related to the student’s enrollment in a school operated by a juvenile justice agency;
2. the disclosure is authorized by a state statute (e.g. 7B-3100) that allows information sharing between schools and juvenile justice agencies, and the disclosure is needed to effectively serve the student prior to an adjudication of delinquency;
3. the disclosure is related to a health or safety emergency of the student or others; or
4. the disclosure is made pursuant to a court order or subpoena.

Requirements for the Consent Form

49. When consent is needed to share education records, who may provide the consent?

FERPA specifically authorizes the release of a juvenile’s education records to third parties based on the written consent of the juvenile’s parent or guardian. A valid consent form authorizing the release of education records must: (1) be signed and dated, (2) specify the records that may be disclosed, (3) state the purpose of the disclosure, and (4) identify the party or class of parties to whom the disclosure may be made (34 CFR 99.30). See Appendix for a copy of Department of Public Safety’s educational release of information form.

Requirements for Maintaining Confidentiality

50. Once I receive educational information pursuant to consent for release of information, do I have an obligation to maintain the privacy of the information?

Yes. When a juvenile justice agency obtains confidential education records from a school with consent, it must certify in writing that it will not re-disclose the information without prior parental or student consent, except as provided by State law. If education records are re-disclosed in violation of FERPA, the violating agency may be denied access to education records for up to 5 years.

Consent Form

“Juvenile Justice–Education” Consent Form

The “Juvenile Justice-Education” consent form was designed to permit sharing among the juvenile justice system and local schools or local management entities that may be involved in developing service plans and connecting youth with educational services. Refer to the Appendix for the consent form and instructions for completing.


North Carolina Department of Public Safety, Juvenile Justice

NC-JJ-111-R

Juvenile Justice – Education
Multiple-Party Consent for Release of Educational Records

Juvenile's Full Name: _____ DOB: _____
 Parent, Guardian, or Custodian: _____ County: _____

I authorize NC Department of Public Safety, Juvenile Justice (hereinafter called "JJ"), and the following parties:

<p>(1) Current School or Local School District</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p>(2) Other School or Educational Agency</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>
<p>(3) Other School or Educational Agency</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p>(4) Other School or Educational Agency</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>

To communicate with and disclose to one another the following information relating to the juvenile named above.

EDUCATION RECORDS TO BE RELEASED:	
1. Name, address, and other personally identifiable information of juvenile	10. Standardized test records
2. Birth certificate	11. Names of previous schools attended
3. Attendance records	12. Records related to educational services for homeless students
4. Class schedule	13. Other; please specify _____
5. Transcripts and academic information	<p><small>Note: I authorize all of the foregoing information to be shared unless I indicate here, by number, one or more categories of information not to be shared:</small></p> <p>_____</p> <p>_____</p>
6. Discipline records	
7. Health and medical records maintained by school, including school nurse notes	
8. Special education records, including an Individualized Education Plan (IEP)	
9. Extra-curricular activities, sports, awards, and honors	

The purposes for the disclosures authorized by this form are:

- (1) To assess the juvenile's needs and develop a service plan for the juvenile.
- (2) To improve decision-making and outcomes for juveniles who are at risk or already involved in the JJ system.
- (3) To coordinate and manage services provided by JJ and the juvenile's school, including sharing information at the juvenile's Child and Family Team meetings.
- (4) To make dispositional recommendations for court-involved juveniles.

1 Form CS 011c, Juvenile Justice Education Multiple-Party Consent for Release of Information
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Conclusion

Effective information sharing is critical to improving service coordination and reducing burden for youth and families, identifying opportunities for policy or program development, and evaluating how well we are impacting the lives of the youth and families served by juvenile justice and the mental health and substance abuse systems.

However, those of us involved in information sharing at these various levels must ensure that we are in compliance with all of the laws that govern the protection of confidential information without placing undue burden on youth and families to sign multiple consent forms to share that information.

This guide, the Juvenile Justice–Behavioral Health consent form, and the Memorandum of Understanding, were rigorously developed over the course of 2 years to ensure that they are in compliance with all relevant laws, but also reviewed through the lens of how families would respond to the language, structure, and intentions of the form.

Therefore, the committee hopes that these tools will help improve the ability of local teams to more effectively share information in order to better serve youth and families, while also increasing our ability to evaluate the impact of our cross-agency and cross-system efforts.

Appendix

Resources

The following resources may be beneficial to teams looking for more information about this project or on information sharing:

**NC Department of Health and Human Services
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services**
<http://www.ncdhhs.gov/mhddsas/>

**NC Department of Public Safety
Division of Adult Correction & Juvenile Justice
Juvenile Justice Section**
<https://www.ncdps.gov/>

**University of North Carolina-Greensboro
The Center for Youth, Family, and Community Partnerships**
<http://cyfcp.uncg.edu/>

**University of North Carolina-Chapel Hill
School of Government**
<http://www.sog.unc.edu/>

Reclaiming Futures
www.ncreclaimingfutures.org
www.reclaimingfutures.org

Juvenile Justice Substance Abuse Mental Health Partnerships
www.ijsamhp.org<http://www.turninglivesaround.org>

**Georgetown University
Center for Juvenile Justice Reform**
<http://cjjr.georgetown.edu/>

**Models for Change
Information Sharing Toolkit**
<http://www.modelsforchange.net/publications/282>

Health Insurance Portability and Accountability Act of 1996 (HIPAA)
<http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>

42 CFR Part 2
<http://www.samhsa.gov/healthprivacy/docs/ehr-faqs.pdf>

Family Educational Rights and Privacy Act (FERPA)
<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Health Information Technology for Economic and Clinical Health Act (HITECH Act)
<http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>



Juvenile Justice – Behavioral Health

Multiple-Party Consent for Release of Information

Medicaid /Other Insurance #: _____
Medical Record #: _____
NC-JOIN #: _____

Juvenile’s Full Name: _____ DOB: _____
Parent, Guardian, or Custodian: _____ County: _____

I authorize the NC Department of Public Safety, Juvenile Justice (hereinafter, “JJ”) and the following parties:

(1) Mental Health, Developmental Disabilities, or Substance Abuse Services Provider

Name: _____
Address: _____
Phone: _____

(2) Local Management Entity/Managed Care Organization (if necessary to authorize services)

Name: _____
Address: _____
Phone: _____

(3) Agency to facilitate multi-system coordination

Name: _____
Address: _____
Phone: _____

(4) Other

Name: _____
Address: _____
Phone: _____

(5) Other

Name: _____
Address: _____
Phone: _____

(6) Other

Name: _____
Address: _____
Phone: _____

To communicate with and disclose to one another the following information relating to the juvenile named above.

Table with 2 columns: INFORMATION TO BE SHARED: (1-10) and (11-15). Includes a note: 'I authorize all of the foregoing information to be shared unless I indicate here, by number, one or more categories of information not to be shared:'



	PURPOSE OF USE AND DISCLOSURE	
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The purposes for the disclosures authorized by this form are:

1. To assess the juvenile's need for mental health, developmental disabilities, or substance abuse services (hereinafter, "MH, DD, SA services").
2. To provide, manage, and coordinate JJ and MH, DD, SA services for the juvenile.
3. To develop a Person Centered Plan, Service Plan, and/or Treatment Plan for the juvenile.
4. To make dispositional recommendations for a court-involved juvenile.
5. To establish financial assistance or other payment for services.
6. To assess the quality and effectiveness of JJ and MH, DD, SA services.
7. To improve service and treatment outcomes for juveniles involved in the JJ and MH, DD, SA services systems.
8. Other (please specify): _____

	REVOCAION AND EXPIRATION	
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I understand that I have the right to revoke this authorization at any time except to the extent that a person or agency which is to make a disclosure has already taken action in reliance on it. If I want to revoke this authorization, I may sign the ACT TO REVOKE section attached to this form and submit it to one of the agencies named above. In addition, authorization for an MH, DD, SA services provider to disclose information may be revoked by following the procedures described in that provider's Notice of Privacy Practices. If not revoked sooner, this authorization expires automatically upon the termination of either JJ involvement or juvenile court jurisdiction, or one year from the date it is signed, whichever is earlier. Authorization to disclose information for the purpose of continuing established financial benefits will be considered valid until the cessation of benefits.

	REDISCLASURE AND CONFIDENTIALITY	
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Once health care information is disclosed pursuant to this signed authorization, I understand that the federal health privacy law (45 C.F.R. Part 164) protecting health information may not apply to the recipient of the information and, therefore, may not prohibit the recipient from redisclosing information to others. However, mental health, developmental disabilities, and substance abuse information protected by state law (G.S. 122C), as well as substance abuse treatment information protected by federal law (42 C.F.R. Part 2), remain confidential and must not be redisclosed by the recipient except as authorized by those laws or this authorization.

	NOTICE OF VOLUNTARINESS	
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I understand that I have the legal right to refuse to sign this authorization form. If I choose not to sign this form, I understand that healthcare providers and health plans cannot deny or refuse to provide treatment, payment for treatment, enrollment in a health plan, or eligibility for health plan benefits because of my refusal to sign.



SIGNATURES	
Signature of Juvenile: _____ Print Juvenile Name: _____ I have the right to have a signed copy of this form.	Date: _____
Signature of Parent, Guardian, or Custodian: _____ Print Parent/Guardian/ Custodian Name: _____ Describe authority to act on behalf of juvenile (check a box or offer other explanation): <input type="checkbox"/> I am the juvenile's parent <input type="checkbox"/> I am the juvenile's guardian <input type="checkbox"/> I am the juvenile's legal custodian Other: _____ I have the right to have a signed copy of this form.	Date: _____ Date: _____
Signature of staff witnessing the signatures above: _____ Print Staff Name: _____	Date: _____
ACTION TO REVOKE	

A. WRITTEN REVOCATION (use either 1 or 2 below, not both)

1. I am revoking the entire authorization:

I hereby give notice that the authorization to disclose information relating to _____
Print name of juvenile

signed by me _____ on _____ is revoked, effective _____
Print name of person who signed authorization Date of authorization Date

Signature of person who is revoking authorization Date

OR



2. I am revoking the authority of the parties named below to disclose and receive information:

I hereby give notice that the authorization to disclose information relating to _____
Print name of juvenile

signed by me _____ on _____ is revoked, effective _____
Print name of person who signed authorization Date of authorization Date

only with respect to the party or parties named below. The authorization remains in effect for other parties named in the authorization.

Authority of _____ to disclose and receive information is revoked.

Authority of _____ to disclose and receive information is revoked.

Authority of _____ to disclose and receive information is revoked.

Authority of _____ to disclose and receive information is revoked.

Signature of person who is revoking authorization Date

Signature of Staff witnessing the revocation Date

B. VERBAL REVOCATION

I, _____, attest that a verbal declaration was made on
Print name of staff receiving revocation

_____ by _____ to revoke this authorization
Date of verbal revocation Print name of person revoking authorization

to disclose information relating to _____.
Print name of juvenile

Signature of staff receiving revocation Date

Consent Form Instructions

“Juvenile Justice-Behavioral Health” Multiple-Party Consent for Release of Information Demographics & other Identifying information:

1. Complete the top right section to include the Medicaid/Other insurance #, Medical Record #, and NC-JOIN #. Medical record # is for the use of an MH/DD/SA provider. In some cases, the Medical Record # and the Medicaid/Other Insurance # may not be known by Juvenile Justice staff, requiring entry by an MH/DD/SA provider at a later time. Juvenile Justice staff should check any existing file for a Medical Record # and ask family for, and provide, a Medicaid/Other insurance # when available.
2. Enter the juvenile's Full Name = First, Middle, & Last name.
3. DOB = Enter the juvenile's date of birth in the following format MM/DD/YYYY.
4. Enter the full name of the parent, guardian, or legal custodian to include first and last name
5. Enter the juvenile's county of residence.

I authorize the NC Department of Public Safety, Juvenile Justice and the following parties:

1. Enter name, address, & phone number of the mental health, developmental disability, or substance abuse agency that will be providing assessment and/or treatment services.
2. Enter the name, address & phone number of the LME-MCO if the juvenile and family will be referred to, and seek authorization for, MH/DD/SA services paid for with Medicaid or other public funds.
3. Enter information for any other agency that will be assisting in the coordination of services that will require access to the juvenile's information.
4. Blanks 4-6 are for other parties and/or agencies that the juvenile and/or Parent/Guardian/Custodian permit to share information, including any additional MH/DD/SA providers. Sometimes the MH/DD/SA agency that assesses the juvenile's needs will be different than the MH/DD/SA agency that provides services to meet those needs. Both should be listed where both are known. It is important to list all persons and agencies who need to share information for purposes of coordinating services, monitoring the juvenile's progress, and evaluating service quality and effectiveness.

To communicate with and disclose to one another the following information relating to the juvenile named above.

1. All of the information outlined in 1-14, to the extent it exists, is subject to being shared with the parties listed on the consent form. If there is specific information to be shared that is not outlined in 1-14, then that may be entered on line #15. If the juvenile or parent/guardian/custodian do not want to give consent to share any one or more of the specifically numbered categories of information, then they need to write those item numbers under the “Note” section provided. Any numbered items written in under the “Note” are excluded from the consent and may not be disclosed.

Purpose of Use and Disclosure

1. If other purposes for the consent exist that are not outlined in 1-7, they need to be specified under “Other.” Information shared among the parties designated on the consent form must be used only for the purposes listed, unless the blank space following “Other” is utilized to describe additional purpose(s).

Revocation and Expiration

1. Nothing needs to be filled out in this section. Just read and review this section with the parent/guardian/custodian and juvenile.

Redisclosure

1. Nothing needs to be filled out in this section. Just read and review with this section with the parent/guardian/custodian and juvenile.

Notice of Voluntariness

1. Nothing needs to be completed in this section. Read and review this with the parent/guardian/custodian.

See questions 27-40 for more detailed information about signatures and revocation procedures.

Signatures

1. Ask the juvenile to sign his or her full name, print his or her name under the signature line, and enter the date of his or her signature. Check to see that the name matches the name entered on the first page.
2. Ask the parent/guardian/custodian to sign and print his or her name as indicated on the first page of the consent form, and enter the date of his or her signature
3. The parent/guardian/custodian must check the box that asserts his or her relationship to the juvenile and that establishes his or her authority to act on the behalf of the juvenile.

Written Revocation: This section is not a part of the written authorization (consent) for the release of information, and should remain blank when the juvenile and family member execute the consent for release form. This section should be used when either the juvenile (if the juvenile signed the consent) or the parent/guardian/custodian wishes to revoke his or her consent to the release of information.

1. If written revocation is made utilizing section A of the revocation form, only section 1 or section 2 should be filled out, not both.
2. Section 1 notates the revocation of the entire authorization. Print the name of the juvenile, the person who signed the authorization and who now is revoking his or her authorization, the date of the authorization, and the effective date of the revocation. The person revoking the authorization must sign and date where indicated.
3. If a signatory to the consent form chooses to revoke the consent with respect to only one or more of the parties named on the front of the consent form, then he or she can do so by completing section 2. In this section print the name of the juvenile, the name of the person who signed the authorization and who now is revoking his or her authorization, the date of the authorization, and the effective date of the revocation. List all agencies and/or individuals that are no longer able to share information with other parties to the consent. The person revoking the authorization must sign and date where indicated.

Verbal Revocation: This section is used when a signatory to the consent form verbally declares that he or she is revoking his or her consent but does not execute a written revocation.

The person completing this section must have been a witness to the verbal revocation of the consent. Only a signatory to the original consent to release information may revoke the consent. The witness must print his or her name, the date of the verbal revocation, the name of the person revoking the consent, and the name of the juvenile. The witness must then sign and enter the date of the attestation.



NC-JOIN #: _____

**Juvenile Justice – Education
Multiple-Party Consent for Release of Educational Records**

Juvenile’s Full Name: _____ DOB: _____

Parent, Guardian, or Custodian: _____ County: _____

I authorize NC Department of Public Safety, Juvenile Justice (hereinafter called “JJ”), and the following parties:

(1) Current School or Local School District

(2) Other School or Educational Agency

Name: _____

Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

(3) Other School or Educational Agency

(4) Other School or Educational Agency

Name: _____

Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

To communicate with and disclose to one another the following information relating to the juvenile named above.

EDUCATION RECORDS TO BE RELEASED:

- 1. Name, address, and other personally identifiable information of juvenile
- 2. Birth certificate
- 3. Attendance records
- 4. Class schedule
- 5. Transcripts and academic information
- 6. Discipline records
- 7. Health and medical records maintained by school, including school nurse notes
- 8. Special education records, including an Individualized Education Plan (IEP)
- 9. Extra-curricular activities, sports, awards, and honors

- 10. Standardized test records
- 11. Names of previous schools attended
- 12. Records related to educational services for homeless students
- 13. Other: please specify

Note: I authorize all of the foregoing information to be shared unless I indicate here, by number, one or more categories of information not to be shared:

The purposes for the disclosures authorized by this form are:

- (1) To assess the juvenile’s needs and develop a service plan for the juvenile.
- (2) To improve decision-making and outcomes for juveniles who are at risk or already involved in the JJ system.
- (3) To coordinate and manage services provided by JJ and the juvenile’s school, including sharing information at the juvenile’s Child and Family Team meetings.
- (4) To make dispositional recommendations for court-involved juveniles.



NC-JOIN #: _____

(5) To assess the quality and effectiveness of JJ services.

(6) Other (please specify): _____

	REVOCATION AND EXPIRATION	
--	----------------------------------	--

I understand that I have the right to revoke this authorization at any time by signing the *Action to Revoke* section at the bottom of this form, except for information that has already been released. Unless revoked sooner, this authorization expires at the completion of JJ involvement or the termination of court jurisdiction.

	REDISCLASURE AND CONFIDENTIALITY	
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Once educational records are disclosed pursuant to this signed authorization, the NC Department of Public Safety, Juvenile Justice certifies that the educational records obtained will not be disclosed to any other agency, organization, or third party without the parent or guardian's written consent, except as allowed by state law, in accordance with 34 CFR § 99.33(a) of the Family Educational Rights and Privacy Act (FERPA). Any educational records disclosed shall remain confidential, shall not be disclosed to the public, and will be used only for the purposes stated in this authorization.

	NOTICE OF VOLUNTARINESS	
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I understand that: (1) I may refuse to sign this authorization form, (2) I have the right to inspect any written records released pursuant to this consent, and (3) I have the right to request a copy of the records that were disclosed and the right to seek to amend them, pursuant to 34 CFR §§ 99.20 and 99.30 of the Family Educational Rights and Privacy Act (FERPA).

	SIGNATURES	
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Signature of Juvenile: _____ Print Juvenile Name: _____ I have the right to have a signed copy of this form.	Date: _____
Signature of Parent, Guardian, or Custodian: _____ Print Parent/Guardian/ Custodian Name: _____ Describe authority to act on behalf of juvenile (check a box or offer other explanation): <input type="checkbox"/> I am the juvenile's parent <input type="checkbox"/> I am the juvenile's guardian <input type="checkbox"/> I am the juvenile's legal custodian Other: _____ I have the right to have a signed copy of this form.	Date: _____ Date: _____
Signature of staff witnessing the signatures above: _____ Print Staff Name: _____	Date: _____



NC-JOIN #: _____

ACTION TO REVOKE

A. WRITTEN REVOCATION (use either 1 or 2 below, not both)

1. I am revoking the entire authorization:

I hereby give notice that the authorization to disclose information relating to _____
Print name of juvenile

signed by me _____ on _____ is revoked, effective _____.
Print name of person who signed authorization Date of authorization Date

Signature of person who is revoking authorization Date

OR

2. I am revoking the authority of the parties named below to disclose and receive information:

I hereby give notice that the authorization to disclose information relating to _____
Print name of juvenile

signed by me _____ on _____ is revoked, effective _____.
Print name of person who signed authorization Date of authorization Date

only with respect to the party or parties named below. The authorization remains in effect for other parties named in the authorization.

Authority of _____ to disclose and receive information is revoked.

Authority of _____ to disclose and receive information is revoked.

Authority of _____ to disclose and receive information is revoked.

Authority of _____ to disclose and receive information is revoked.

Signature of person revoking authorization Date

Signature of staff witnessing revocation Date



NC-JOIN #: _____

B. VERBAL REVOCATION

I _____, on this day _____, attest that a verbal declaration
Print name of staff receiving revocation *Date of attestation*

was made on _____ by _____ to revoke the authorization
Date of request *Print name of person revoking authorization*

to disclose information relating to _____.
Print name of juvenile

Signature of staff receiving revocation *Date*

Consent Form Instructions

“Juvenile Justice-Education” Consent for Release of Information Demographics & other Identifying information:

1. Enter the juvenile’s Full Name = First, Middle, & Last name
2. DOB = Enter the juvenile’s date of birth in the following format MM/DD/YYYY
3. Enter the full name of the parent, guardian, or legal custodian to include first and last name
4. Enter the juvenile’s county of residence

I authorize the NC Department of Public Safety, Juvenile Justice and the following parties:

1. Enter name, address, & phone number of the school or district in which the juvenile is currently enrolled
2. Enter the name, address & phone number of other school or educational agencies. It is important to list all persons and agencies who need to share information for purposes of coordinating services and monitoring the juvenile’s progress.

To communicate with and disclose to one another the following information relating to the juvenile named above.

1. All of the information outlined in 1-12, to the extent it exists, is subject to being shared with the parties listed on the consent form. If there is specific information to be shared that is not outlined in 1-12, then that may be entered on line #13. If the juvenile or parent/guardian/custodian do not want to give consent to share any one or more of the specifically numbered categories of information, then they need to write those item numbers under the “Note” section provided. Any numbered items written in under the “Note” are excluded from the consent and may not be disclosed.

Purpose of Use and Disclosure

1. If other purposes for the consent exist that are not outlined in 1-5, they need to be specified under “Other.” Information shared among the parties designated on the consent form must be used only for the purposes listed, unless the blank space following “Other” is utilized to describe additional purpose(s).

Revocation and Expiration

1. Nothing needs to be filled out in this section. Read and review with the parent/guardian/custodian and juvenile.

Redisclosure

2. Nothing needs to be filled out in this section. Read and review with the parent/guardian/custodian and juvenile.

Notice of Voluntariness

1. Nothing needs to be filled in this section. Read and review with the parent/guardian/custodian.

Signatures

(See question 49 for more information on required signatures).

1. Ask the juvenile to sign his or her full name, print his or her name under the signature line, and enter the date of his or her signature. Check to see that the name matches the name entered on the first page.

2. Ask the parent/guardian/custodian will sign and print his or her name as indicated in the first section of the consent, and enter the date of his or her signature
3. The parent/guardian/custodian must check the box that asserts his or her relationship to the juvenile and that establishes his or her authority to act on the behalf of the juvenile.

Written Revocation: This section is not a part of the written authorization (consent) for the release of information and should remain blank when the juvenile and family member executes the consent for release form. This section is to be used when either the juvenile or the parent/guardian/custodian wishes to revoke his or her consent to the release of information.

1. If written revocation is made utilizing the form, only section 1 or section 2 should be filled out, not both.
2. Section 1 notates the revocation of the entire authorization. Print the name of the juvenile, the person who signed the authorization and who now is revoking his or her authorization, the date of the authorization, and the effective date of the revocation. The person revoking the authorization must sign and date where indicated.
3. If the parent/guardian/custodian chooses to revoke the consent with respect to only one or more of the parties named on the front of the consent form, then they can do so by completing section 2. In this section print the name of the juvenile, the name of the person who signed the authorization and who now is revoking his or her authorization, the date of the authorization, and the effective date of the revocation. List all agencies and/or individuals that are no longer able to share information with other parties to the consent. The person revoking the authorization must sign and date where indicated

Verbal Revocation: This section is used when a signatory to the consent form verbally declares that he or she is revoking their consent but does not execute a written revocation.

The person completing this section must have been a witness to the verbal revocation of the consent. Only a signatory to the original consent to release information may revoke the consent. The witness must print his or her name, the date of the verbal revocation, the name of the person revoking the consent, and the name of the juvenile. The witness must then sign and enter the date of the attestation.

Sample Memorandum of Understanding for North Carolina Juvenile Justice and Mental Health/ Developmental Disabilities/Substance Abuse Systems

I. This Agreement supports and facilitates the exchange of information between parties of the agreement in order to effectively coordinate services and provide oversight and evaluation of the quality and effectiveness of services to those children and families involved in the juvenile justice and mental health and/or substance abuse systems, and is made and entered into as of the date set forth below, by and between the following parties whose representatives have signed the agreement:

1. North Carolina Department of Public Safety, Juvenile Justice Section;
2. Mental Health, Developmental Disabilities, or Substance Abuse Services Provider(s) ;
3. Local Management Entity/Managed Care Organization(s);
4. Local Education Authority or School, _____;
5. Community Based Organization(s), _____;(s); and
6. Administrative Office of the Courts.

II. Purposes

Whereas, all parties are committed to ensuring that youth involved with both the juvenile justice and mental health/substance abuse systems and their families are afforded the least burdensome delivery of services;

Whereas, the privacy and confidentiality of information regarding youth in the juvenile justice and mental health/substance abuse systems is an important legal and ethical obligation;

Whereas, all parties are committed to improving cooperation, integration, and collaboration at the service delivery, administrative, and evaluative levels for the benefit of youth and families involved with the juvenile justice and mental health and substance abuse systems;

Whereas, all parties agree that improvements to the quality and effectiveness of services can be supported by the sharing of relevant and necessary information;

Whereas, all parties agree that the exchange of information between juvenile justice and mental health/substance abuse systems is allowable and encouraged within the parameters of G.S. 7B-3100, G.S. 90-21.4(b), G.S. 122C, 42 C.F.R. Part 2, 45 C.F.R. 164, 10A N.C.A.C. 26B and 14B N.C.A.C. 11A .0301;

Whereas, all parties mutually agree that this agreement shall be interpreted in light of, and consistent with governing State and Federal laws;

Whereas, all parties agree that information identifying the youth should be shared only to the degree it is necessary for the recipient of the information to perform his or her role and that information shared for evaluation of the quality and effectiveness of services will be used when protections of the youth's identity have been utilized;

Now, therefore, the parties agree that this Memorandum of Understanding reflects their understanding and agreement as to the permitted and prohibited sharing and uses of information in the juvenile justice process.

III. Definitions:

1. "Juvenile Justice information" or "Juvenile Justice Records" means any information, whether recorded or not, relating to an individual's involvement with the juvenile justice system, including confidential records and files maintained by clerks of superior court, law enforcement agencies, and the North Carolina Department of Public Safety, Juvenile Justice Section.
2. "Confidential information" means any information, whether recorded or not, relating to an individual served by a mental health, developmental disabilities, or substance abuse services provider that is received in connection with the performance of any function of the provider.
3. "Mental health, developmental disabilities, or substance abuse services provider" means any person or entity at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers.
4. "Local management entity/managed care organization" or "LME/MCO" means an area mental health, developmental disabilities, and substance abuse authority that is responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level and that is under contract with Department of Health and Human Services to operate the combined Medicaid Waiver program authorized under Section 1915(b) and Section 1915(c) of the Social Security Act.
5. Community Based Provider means any person or entity whose purpose is to provide, support engagement in, and/or coordinate services for the care of a juvenile, which may include assessment, treatment, community service, restitution, positive youth development or recreational activities.
6. Juvenile Justice-Behavioral Health Partnership local team means a cross-agency team, such as Reclaiming Futures or Juvenile Justice Substance Abuse Mental Health Partnership (JJSAMHP) or Juvenile Justice Treatment Continuum (JJTC) that works to improve the system of care for juvenile justice involved youth with mental health, substance abuse or co-occurring disorders.

IV. Each of The Parties Agrees To:

1. Promote a mutual understanding of the allowances and limitations outlined in G.S. 7B-3100, G.S. 90-21.4(b), G.S. 122C, 42 C.F.R. Part 2, 45 C.F.R. 164, 10A N.C.A.C. 26B and 14B N.C.A.C. 11A .0301, and other applicable state and federal laws;
2. Delineate how the agencies will work together to facilitate information sharing and to ensure that confidential information is disseminated only to the appropriate persons or agencies as provided by law or otherwise pursuant to a lawfully obtained consent form;
3. Train relevant staff in procedures for interagency collaboration and information sharing;
4. Comply with relevant state and federal law and other applicable local rules and ethical standards, which relate to records use, dissemination, and retention/destruction;
5. Comply with relevant state and federal law and other applicable local rules and ethical standards, which relate to the dissemination of information, whether written or oral.
6. Develop appropriate internal written policies to ensure that confidential information concerning juveniles is disseminated only to appropriate personnel.

IV. The N.C. Department of Public Safety, Juvenile Justice Section Agrees To:

1. Share juvenile justice information with any party to this agreement, pursuant to a court order or the written consent of the juvenile or the juvenile's parent, guardian, or custodian, in order to assess the juvenile's needs and develop an appropriate service or treatment plan for the juvenile.
2. Share juvenile justice information with any party to this agreement, when required by G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301, upon request and to the extent permitted by federal law and regulations, only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile.
3. Maintain the confidentiality of juvenile justice records and limit disclosure of confidential information concerning juveniles only to authorized persons, in accordance with G.S. 7B-3001(c) and G.S. 7B-3100(b). Authorized persons include the juvenile or the juvenile's attorney, the juvenile's parent, guardian, or custodian, the authorized representative of the juvenile's parent, guardian, or custodian, professionals in the Juvenile Justice Section who are directly involved in the juvenile's case, and juvenile court counselors.
4. Ensure that any statements made by a juvenile during evaluation and intake are protected, pursuant to the juvenile's privilege against self-incrimination and right to counsel under the Fifth and Sixth Amendments to the United States Constitution, and Article I, Section 23 of the North Carolina Constitution.
5. Ensure that no statements made by a juvenile to a juvenile court counselor during intake are admitted at an adjudication hearing, in accordance with G.S. 7B-2408.
6. Ensure that information obtained by a juvenile court counselor during intake, including information shared pursuant to this agreement, is not disclosed to the court prior to a dispositional hearing, in accordance with G.S. 7B-2413.
7. Use information shared pursuant to this agreement to prepare predisposition reports and risk and needs assessments for court-involved juveniles, in order to make dispositional recommendations to the court, in accordance with G.S. 7B-2413.
8. Ensure that no predisposition report or risk and needs assessment is completed prior to an adjudication that a juvenile is delinquent or undisciplined without the written consent of the juvenile, the juvenile's parent, guardian, or custodian, or the juvenile's attorney, in accordance with G.S. 7B-2413.
9. Allow only the juvenile or the juvenile's attorney, the juvenile's parent, guardian, or custodian, or the District Attorney to examine the predisposition report and any risk and needs assessments prior to the dispositional hearing, in accordance with G.S. 7B-2413.
10. Ensure that the predisposition report is not disclosed to the court prior to the completion of the adjudication hearing, in accordance with G.S. 7B-2413.
11. Share dispositional information as appropriate with other parties to this agreement, as necessary, in order to comply with any evaluation, assessment, or treatment, ordered by the court in accordance with G.S. 7B-2502.
12. Ensure that juvenile justice records maintained by the Juvenile Justice Section are retained and destroyed, in accordance with G.S. 7B-1706 and G.S. 7B-3200.

13. Maintain in accordance with G.S. 122C and 42 C.F.R. Part 2, as applicable, the confidentiality of mental health, developmental disabilities, and substance abuse services information obtained from an entity whose client information is governed by G.S. 122C and 42 C.F.R. Part 2, which entities include mental health, developmental disabilities, or substance abuse services providers and local management entity/managed care organizations.
14. Use and disclose information obtained under G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301, whether from a provider of mental health, developmental disabilities, or substance abuse services or from a local management entity/managed care organization, only as permitted or required by G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301 .
15. Use and disclose mental health, developmental disabilities, and substance abuse information acquired pursuant to an NC Department of Public Safety “Juvenile Justice—Behavioral Health, Multiple-Party Consent For Release of Information” (or any valid consent for release of information) only as permitted by the terms of the executed consent for release of information form, unless otherwise permitted or required by law .

V. Each Mental Health, Developmental Disabilities, or Substance Abuse Services Provider, whether providing assessment/evaluation/diagnostic services or treatment services, or both Agrees To:

1. Disclose confidential information to any party of this agreement who is designated on a validly executed NC Department of Public Safety “Juvenile Justice—Behavioral Health, Multiple-Party Consent for Release of Information” form (or any other valid consent for release of information form) in accordance with the terms and limitations of the consent for release of information form.
2. Share juvenile justice information with any party to this agreement, when required by G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301, upon request and to the extent permitted by federal law and regulations, only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile.
3. Use and disclose juvenile justice information obtained under G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301 only as permitted or required by G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301 .
4. Use and disclose juvenile justice information acquired pursuant to a NC Department of Public Safety “Juvenile Justice—Behavioral Health, Multiple-Party Consent For Release of Information” (or any valid consent for release of information) only as permitted by the terms of the executed consent for release of information form, unless otherwise permitted or required by law .

VI. Each Local Management Entity/Managed Care Organization Agrees To:

1. Disclose confidential information to any party of this agreement who is designated on a validly executed NC Department of Public Safety “Juvenile Justice—Behavioral Health, Multiple-Party Consent For Release of Information” form (or any other valid consent for release of information form) in accordance with the terms and limitations of the consent for release of information form.
2. Share juvenile justice information with any party to this agreement, when required by G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301, upon request and to the extent permitted by federal law and regulations, only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile.
3. Use and disclose juvenile justice information obtained under G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301 only as permitted or required by G.S. 7B-3100(a) and 14B N.C.A.C. 11A .0301 .
4. Use and disclose juvenile justice information acquired pursuant to a NC Department of Public Safety “Juvenile Justice—Behavioral Health, Multiple-Party Consent For Release of Information” (or any valid consent for release of information) only as permitted by the terms of the executed consent for release of information form, unless otherwise permitted or required by law .

VII. Administration of the MOU

Term of Agreement:

This Agreement is effective for one year upon the date of the final signature and shall renew automatically for subsequent one-year terms unless otherwise modified. Any signatory to this Agreement may terminate participation upon thirty days' notice to all other signatories to the Agreement.

Agency Representatives:

This MOU will be administered by the Juvenile Justice-Behavioral Health Partnership local team which consists of the following agency representation: Division of Mental Health, Developmental Disabilities, and Substance Abuse Services Provider(s), Juvenile Justice team members from the Department of Public Safety, Juvenile Justice Section, Local Management Entity-Managed Care Organization, and/or community based organization(s). The interagency management team shall operate as follows:

1. Meet at least monthly to discuss implementation of information sharing agreements, including training and technical assistance to local team members and their staff;
2. Provide quarterly updates to community partners;
3. Review the MOU at least annually for amendments;
4. Respond to queries from local team members and their staff regarding implementation challenges and ensure consistency within the team;

Modification of Agreement:

Modification of this Agreement shall be made by formal consent of all parties, pursuant to the issuance of a written amendment, signed and dated by the parties, prior to any changes.

Other Interagency Agreements:

This agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement, nor does it supplant any existing agreement between such parties.

Signatures of Parties to this Agreement:

In Witness Whereof, the parties hereto have entered into this Agreement as evidenced by their signatures below. A certified copy of the Agreement shall be provided to each signatory to the Agreement. The original Agreement shall be filed with the Clerk of [Enter Name].

NC Department of Public Safety, Juvenile Justice Section, District [Enter District Number]

Signature **Date**

For the Administrative Office of the Court, District [Enter District Number]

Signature **Date**

Enter Agency Name, Local Management Entity/Managed Care Organization

Signature

Date

Enter Agency Name, Provider of Mental Health, Developmental Disabilities, or Substance Abuse Services

Signature

Date

Enter Agency Name, Provider of Mental Health, Developmental Disabilities, or Substance Abuse Services

Signature

Date

Enter Agency Name, Provider of Mental Health, Developmental Disabilities, or Substance Abuse Services

Signature

Date

Enter Agency Name, Community Based Provider

Signature

Date

Enter Agency Name, Community Based Provider

Signature

Date

Enter Agency Name, Community Based Provider

Signature

Date

ATTACHMENTS

Insert here list of forms or other pertinent documents to implement the above agreement